

502 KAR 30:060. Dissemination of criminal history record information.

RELATES TO: KRS 11.160(1)(e), 11.160(2)(e), 15.540, 17.115, 17.140, 17.147, 17.151, 17.1522, 17.160, 17.167(4), 154.650, 237.110(7), 311A.100

STATUTORY AUTHORITY: KRS 15A.150, 15.382, 17.150(6), 17.160(3), 17.165, 17.167, 156.483, 160.151, 160.380, 161.148, 199.462(4), 216.793, 238.525, 281A.040, 281A.300, 324.045, 329.030, 329A.025, 351.090, 351.315

NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.115 provides that the Justice Cabinet shall cooperate with the state, county and city law enforcing agencies of other states and of the United States in order to develop and carry on an interstate and national system of criminal identification. KRS 17.147(6) provides that the Department of State Police shall supply data, at their request, to participating federal bureaus, departments, or criminal justice agencies engaged in the administration of criminal justice programs. Further, KRS 17.150(6) requires the Secretary of Justice to adopt administrative regulations to carry out the provisions of the criminal history record information system. This administrative regulation establishes the conditions under which the criminal history record information system may disseminate data.

Section 1. Dissemination of Criminal History Record Information (CHRI). Use of CHRI disseminated to noncriminal justice agencies shall be limited to the purpose for which it was given. An agency or individual shall not confirm the existence or nonexistence of CHRI to any person or agency that would not be eligible to receive the information itself. Dissemination of CHRI shall be regulated by the specific category of criminal history record information. Those categories shall include:

(1) Nonconviction data. Dissemination of nonconviction data shall, with the exception of the computerized Kentucky State Police files accessed by an open record request directly to the Department of State Police, be limited, whether directly or through an intermediary, to:

(a) Criminal justice agencies for purposes of the administration of criminal justice and criminal justice agency employment.

(b) Individuals and agencies for any purpose authorized by statute, ordinance, executive order, or court order, as determined by the General Counsel, Justice Cabinet.

(c) Individuals and agencies pursuant to a specific agreement as outlined in 502 KAR 30:040 with the Department of State Police, to provide services required for the administration of criminal justice pursuant to that agreement.

(d) Individuals and agencies for the express purpose of evaluation research, or statistical activities pursuant to an agreement with the Criminal Identification and Records Branch of the Kentucky State Police (Records). The agreement shall:

1. Limit the use of data to evaluation, research, or statistical purposes;

2. Insure the confidentiality and security of the data consistent with these administrative regulations; and

3. Provide sanctions for violations of the agreement.

(2) Conviction data. Dissemination of conviction data shall be limited as follows:

(a) Juvenile records. Dissemination of records concerning proceedings relating to the adjudication of a juvenile as delinquent or in need of supervision shall not be released to the public without court order. This restriction shall not apply to juveniles who were tried as an adult.

(b) Criminal history record checks for employment purposes. Criminal history record information of a conviction nature may be disseminated to potential employers of persons. To obtain criminal history record information regarding convictions, a prospective employee or volunteer through the potential employer shall complete the relevant form, prescribed by this administrative regulation, which is appropriate for the request. The form shall include a waiver that releases the Kentucky

State Police from liability with regard to the dissemination of conviction data. The form shall also include the name of the potential employer, signature of the prospective employee or volunteer, and a witness signature. The form shall also include sex, race, date of birth, Social Security number, and previous addresses of the prospective employee or volunteer.

(c) Nonemployment criminal records checks. Criminal history record information of a conviction nature may be disseminated to individuals, entities, or organizations in regard to emigration or housing. To obtain criminal history record information regarding convictions, an individual shall complete the relevant form, prescribed by this administrative regulation, which is appropriate for the request. The form shall include a waiver that releases the Kentucky State Police from liability with regard to the dissemination of conviction data. The form shall also include the name of the recipient individual, entity or organization, signature of the individual requester, and a witness signature. The form shall also include sex, race, date of birth, Social Security number and previous addresses of the individual applicant. The applicable forms shall be as follows:

1. Request for KSP Conviction Records/Housing, 10/03 edition; and
2. Request for Conviction Records/Emigration, 10/03 edition.

(d) In regard to employment criminal records checks, the prospective employer shall be responsible for the completion of the appropriate form as indicated in paragraph (b) of this subsection and shall submit a check or money order for twenty (20) dollars, made payable to the Kentucky State Treasurer.

(e) If the criminal records check is nonemployment in nature, the applicant shall be responsible for the completion of the form as listed in paragraph (c) of this subsection and shall submit a check or money order in the amount of twenty (20) dollars, made payable to the Kentucky State Treasurer.

(f) Pursuant to KRS 17.167(4), employees and members of fire departments, ambulance services, and rescue squads shall be exempted from the fee required in this section.

(g) The fee in this section shall not apply to applications for a license, or a renewal of a license, to carry a concealed deadly weapon. The fees for this license are provided in KRS 237.110(7).

Section 2. As outlined in 502 KAR 30:040, the computerized criminal history record information system, as well as criminal justice and law enforcement agencies receiving CHRI from the computerized criminal history record information system shall log all disseminations of CHRI. The log shall contain at least the following information: the name of the agency and individual receiving CHRI, the date of release, the individual to whom the CHRI relates, the items of CHRI released, and, in the case of secondary dissemination, the agency which provided the CHRI. Transaction logs shall be maintained in a records subject accessible state for at least twelve (12) months from the date of CHRI dissemination.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Request for Conviction Records - Employment/Professional License", 10/08 edition;
- (b) "Request for Conviction Records/Child Care", 9/08 edition;
- (c) "Request for Conviction Records/Adoptions and Foster Homes", 9/08 edition;
- (d) "Request for Conviction Records/Lottery", 10/08 edition;
- (e) "Request for Conviction Records/Long-Term Care Facility", 10/08 edition;
- (f) "Request for Conviction Records/Kentucky Department of Mines and Minerals", 10/08 edition;
- (g) "Request for Conviction Records/Fire Department, Ambulance Service and Rescue Squad", 10/03 edition;
- (h) "Request for Conviction Records/Minors", 10/08 edition;
- (i) "Request for Conviction Records/Nonpublic Schools", 9/08 edition;

- (j) "Request for Conviction Records/Department of Education", 9/08 edition;
- (k) "Request for Conviction Records/Legislative Research Commission", 10/08 edition;
- (l) "Request for Conviction Records/Housing", 10/08 edition;
- (m) "Request for Conviction Records/Emigration", 9/08 edition; and
- (n) "Request for Conviction Records/Public Schools", 10/08 edition.

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